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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/449,321	11/24/1999	GREGG A. BONIKOWSKI	XER20308-D/9	6134
7590	06/30/2005		EXAMINER	
ALBERT P SHARPE III ESQ FAY SHARPE FAGAN MINNICH & MCKEE LLP 1100 SUPERIOR AVENUE 7TH FLOOR CLEVELAND, OH 441142518			BRINICH, STEPHEN M	
			ART UNIT	PAPER NUMBER
			2624	
			DATE MAILED: 06/30/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/449,321	BONIKOWSKI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Stephen M. Brinich	2624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 07 February 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,4-6 and 9-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,4-6 and 9-14 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 07 February 2005 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

**DETAILED ACTION**

***Drawings***

1. Replacement drawing sheets 3 & 4 (of 5) were received on 2/7/05. These drawings are acceptable.

***Claim Rejections - 35 USC § 103***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1, 4-6, & 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gauronski et al (5164842) in view of Willard et al and Austin et al.

Re claim 1, Gauronski et al discloses a method for producing interrupting jobs for a document processing apparatus comprising a plurality of machine modules for processing and/or producing printed media (Figures 1-3). The method disclosed by Gauronski et al comprises the following steps: The main job is specified (column 5, line 65 - column 6, line 4), where the disclosed Job Scorecard of said main job inherently represents a measure of progress. The production of the main job is started (column 6, lines 22-31). The main job is interrupted at a point when productivity is maintained and media is not wasted based on the at least one measure of progress and the specified sample interval (column 7, lines 35-52). The interrupting job is

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produced (column 7, lines 53-60). Lastly, the main job is resumed (column 8, lines 4-9).

Re claim 10, Gauronski discloses, in a document processing apparatus including a plurality of machine modules that process and/or produce printed media, a method comprising the steps of specifying a job (column 5, line 54 - column 6, line 4), generating an interrupting job description (column 6, line 66 - column 7, line 16), and presenting the interrupting job description for processing and analyzing the interrupting job description (i.e. producing a printout of the interrupting job). An efficient point in the job to produce the samples is determined and the interrupt job is processed at that point (column 7, lines 35-60). The main job is then resumed (column 8, lines 4-9).

Gauronski et al does not disclose specifying a sample job including preselecting at least one representative part of the main job or specifying a sample interval for the at least one representative part.

Willard et al teaches (column 1, line 60 - column 2, line 12) a mode of operation for a printer where a currently running main print job is interrupted in order for a sample page of said print job to be sent to a sample print tray. The main job is resumed subsequent to this selection operation. This sample page

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is inherently a representative part of the main job to be sampled, as per the standard definition of the term "sample".

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Gauronski et al so that the interrupting job was specified as a sample job including at least one representative part of the main job. The motivation for this modification would be in order to provide the advantage of permitting the printing system to be occasionally monitored to test and verify the printing quality of the output before an entire run had been produced (thus saving time and materials if the run is found to be unsuitable early in the process).

Gauronski et al in view of Willard et al does not disclose the providing of such a representative sample at predetermined intervals (thus preselecting as the samples those job portions which occur at the interval points).

Austin et al teaches (column 10, lines 26-32) the providing of a sample at predetermined intervals.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to specify a sample interval for the at least one representative part. The motivation for this modification would be in order to insure that the printing system does not run without monitoring for

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more than a given length, thus limiting the number of unsuitable prints produced before the next check.

Re claims 4-6, Austin further discloses (column 10, lines 31-32) a step of measuring the predetermined sample interval in terms of copy quantity or in terms of time (e.g. every ten sheets or every five minutes) and generating a new sample job at the end of each such interval.

4. Claims 9 & 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gauronski et al, Willard et al, and Austin et al as applied to claim 1 above, and further in view of van Lydegraf.

Re claim 9, van Lydegraf teaches (column 3, lines 13-25) the use of an exit system wherein an interrupting job is output to a different exit port than an interrupted main job. This would deliver the interrupting job at a convenient location apart from the main job delivery location. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Gauronski, Willard and Austin so that the interrupting job was delivered at a convenient location apart from the main job delivery location. The motivation for this modification would be in order to process an interrupting job without mixing the sample pages produced therefrom into the main job.

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Re claim 11, Gauronski et al further discloses a method for producing interrupting jobs for a document processing apparatus comprising a plurality of machine modules for processing and/or producing printed media under the control of a computing platform (60) in communication therewith (Figure 2).

Re claim 12, Gauronski et al further discloses (Figure 2) as parts of the processing apparatus a digital front end (50,51,52) and a mark facility controller (60) in communication with each other.

Re claims 13-14, Gauronski et al further discloses (Figure 2) as parts of the processing apparatus a paper feeder (107), a finisher (120), and a print engine (95).

***Response to Arguments***

5. Applicant's arguments filed 2/7/05 have been fully considered but they are not persuasive.

Re claims 1, 4-6, & 10, Applicant argues (2/7/05 Response: page 9, lines 19-29) that the pages sent to the sample tray of Willard do not constitute a "sample job", but rather are randomly selected pages from the "main job" (i.e. whatever page is being printed when the operator presses the "sample print button").

However, the claim language does not appear to preclude the "sample job" from overlapping or being a subset of the "main

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job". Thus, the pages sent to the sample tray of Willard are readable on the claimed "sample job", notwithstanding the fact that they are drawn from the "main job".

Re claims 1, 4-6, & 10, Applicant further argues (2/7/05 Response: page 9, line 30 - page 10, line 2) that Austin does not disclose the providing of a sample at predetermined intervals, but rather suggests measuring aspects of the main job at predetermined periods (e.g. every five minutes or every tenth output image).

This argument is based on the same alleged point of distinction (that the "sample job" and the "main job" are separate in such a way that an element of the latter cannot also be an element of the former), and thus does not preclude a reading of the present claims on the references for the same reason (i.e. the claims as written do not preclude the "sample job" from overlapping or being a subset of the "main job").

Re claims 1, 4-6, & 10, Applicant further argues (2/7/05 Response: page 10, lines 3-6) that the references of record do not disclose or suggest preselecting a specific portion of a main job for repeated production.

However, the claim language does not appear to require repeated production of a portion of the main job.

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Re claims 1, 4-6, & 10, Applicant further argues (2/7/05 Response: page 10, lines 6-11) that Willard does not disclose or suggest diverting a particular portion of a main job, but rather the generation of a command to redirect a page that happens to be printing at the moment the sample print button is pressed and that Austin measures the quality of whatever image is being printed or is within the viewfield of a sensor when the sample interval expires.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In the present case, Willard is relied upon for the teaching of interrupting the main job in order to produce a sample job, and Austin is relied upon for the teaching of producing the sample job at predetermined intervals.

Re claim 9, Applicant argues (2/7/05 Response: page 10, lines 15-16) that claim 9 is patentable for at least the same reasons as parent claim 1.

The arguments re claim 1 have been addressed above.

Re claim 11, Applicant argues (2/7/05 Response: page 10, line 17 - page 11, line 2) that arguments similar to those

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advanced re claim 1 apply. In particular, Applicant argues (2/7/05 Response: page 10, lines 25-31) that the diverted sheet of Willard is selected randomly and is not predetermined and is not necessarily representative of the main job.

The arguments re claim 1 have been addressed above.

Re the issue of whether the samples are "predetermined", Austin discloses (column 10, lines 26-32) the providing of a sample at predetermined intervals.

Re the issue of whether the samples are "representative", Examiner acknowledges that the sampling arrangements of the art of record, particularly the sampling at regular time intervals or regular page count intervals taught by Austin, may not produce perfectly representative samples of any specific print run. However, Examiner maintains that individual deviations between the content of a sample and the content of the larger document (e.g. a sample containing only text drawn from a larger document containing text and images) do not make the sampling procedure non-representative, but rather are cases of normal sampling error of the sort are possible in a "representative sample" as that term is understood by one of ordinary skill in the art.

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***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Brinich at 571-272-7430. The examiner can normally be reached on weekdays 7:00-4:30, alternate Fridays off.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Tech Center 2600 Customer Service center at 571-272-2600 or to the USPTO Contact Center at 800-786-9199 or 703-308-4357.

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If attempts to contact the examiner and the Customer Service Center are unsuccessful, supervisor David Moore can be contacted at 571-272-7437.

Faxes pertaining to this application should be directed to the Tech Center 2600 official fax number, which is 703-872-9306.

Stephen M Brinich  
Examiner  
Art Unit 2624

smb *SMB*  
June 9, 2005



THOMAS A.  
~~THOMAS~~ LEE  
PRIMARY EXAMINER